

**FINAL REPORT OF THE OREGON JUDICIAL DEPARTMENT  
WORK GROUP ON QUALIFICATIONS FOR TRANSCRIPTIONISTS**

**November 2006 - August 2007**

**Work Group Members:**

**The Honorable Rick T. Haselton (Chair)**

**Scott Crampton**

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**September 5, 2007**

## I. INTRODUCTION/SUMMARY

On November 16, 2006, the Honorable Paul J. De Muniz, Chief Justice of the Oregon Supreme Court, directed the creation of an Oregon Judicial Department ("OJD") "Work Group on Qualifications for Transcriptionists" (the "Work Group"). The Chief Justice charged the Work Group "with reviewing the process by which transcriptionists are selected and developing a process to establish qualifications for transcriptionists who prepare transcripts on appeal."

Between January 19 and August 3, 2007, members of the Work Group met eight times, developing and drafting a proposed OJD policy, which (1) prescribes uniform standards of qualification for persons preparing appellate transcripts and (2) defines criteria guiding the selection of transcriptionists by transcript coordinators pursuant to Rule 3.33(2) of the Oregon Rules of Appellate Procedure.<sup>1</sup>

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<sup>1</sup> ORAP 3.33 provides, in part:

"(2)(a) When a party has designated as part of the record on appeal a transcript of oral proceedings reported by:

"\* \* \* \* \*

"(ii) Audio or video recording, the transcript coordinator shall identify one or more qualified transcriptionists, forward a copy of the notice of appeal to the transcriptionist(s) along with a certified copy of the audio or video tape recording, and notify the transcriptionist(s) of the due date of the transcript.

"\* \* \* \* \*

"(3) After making arrangements with the court reporter(s) or transcriptionist(s) as provided in subsection (2) of this rule, the transcript coordinator shall notify the appellate court and the parties to the appeal of the name, address and telephone number of each court reporter or transcriptionist, or both, as appropriate, who will be preparing all or a part of the transcript.

"(4) It shall be the responsibility of each court reporter or transcriptionist with whom arrangements have been made to prepare a

The Work Group respectfully submits and unanimously recommends that OJD, after completion of appropriate process, adopt the proposed policy appended as Attachment 1 to this report.

## II. THE WORK GROUP'S PROCESS

The Work Group, as appointed by the Chief Justice, consisted of the following members: The Honorable Rick Haselton, Court of Appeals Judge (Chair); Scott Crampton, OJD Director of Appellate Services; Monica Melhorn, Executive Analyst; Richard Moellmer, Washington County Trial Court Administrator; Bradley Nicholson, Oregon Supreme Court Staff Attorney; and Barbara Shipp, Multnomah County Transcript Coordinator. Mr. Crampton's participation continued until he left OJD in May 2007.

The Work Group met on eight occasions: January 19, February 5, February 26, March 20, April 23, May 16, June 13, and August 3, 2007. In its initial meetings, the Work Group focused primarily on the development of a uniform statewide qualification standard for appellate transcriptionists and mechanisms for the education and certification of qualified transcriptionists. Work Group members agreed that a standard of qualification should include three components: (1) general technical and professional proficiency; (2) knowledge of the particular requirements of Oregon law, including applicable provisions of the Oregon Rules of Appellate Procedure governing preparation of appellate transcripts; and (3) knowledge of, and adherence to, standards of professional conduct governing transcriptionists.

After tentatively identifying the components of a uniform qualification standard, the Work Group then explored the feasibility of two different methods of implementing that standard: (1) an OJD-administered testing and certification program,

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transcript to:

"(a) Cause the transcript to be prepared in conformity with ORAP 3.35, and

"(b) Serve and file the transcript within the time provided in ORS 19.370 and, if the transcript is not served and filed within that time, to move for an extension of time."

(Footnote omitted.)

akin to the state-administered certification process for appellate transcriptionists in Michigan (the "Michigan model"); and (2) adoption by reference/"piggybacking" onto certifications by well-recognized professional associations, *e.g.*, the American Association of Electronic Reporters and Transcribers (the "AAERT model").

Members of the Work Group gathered and assessed information pertaining to those two "models," including conversations with staff in the Michigan state court administrator's office and with AAERT personnel, including a member of AAERT's certification committee and AAERT's vice president for government relations. In addition, Sue Roberts, a Salem transcriptionist, attended one of the Work Group's meetings and answered members' questions regarding the AAERT certification process.

Based on the information obtained, the Work Group engaged in a "cost/benefit" calculus comparison of the two models. The Work Group recognized that there could be substantial advantages from a "customized" approach that focused on "Oregon-specific" aspects of appellate transcript preparation. Nevertheless, the cost of starting a program "from scratch" and then administering it on an ongoing basis (as in Michigan) would be very high--and, indeed, might well be prohibitive for OJD or the individual applicants. Conversely, members of the Work Group were concerned that to base qualification solely on some "national" certification measure (the AAERT model) would fail to capture the "Oregon-specific" components of the putative qualification standard.

Ultimately, the Work Group agreed that the best approach would be a modified "hybrid" of the two approaches, consisting of three components. *First*, an applicant must obtain, or already hold, a recognized certification of professional proficiency, as granted by a recognized professional association (*e.g.*, the National Court Reporters Association, AAERT) or a recognized state certification (*e.g.*, Oregon Certified Shorthand Reporter or similar certification from the states of Washington or California). *Second*, the applicant must attend and complete an educational program, sponsored by the Office of the State Court Administrator, pertaining to Oregon-specific requirements governing transcript formatting, deadlines, and notification requirements. *Third*, the applicant must certify that he or she will abide by a code of professional conduct governing persons preparing transcripts for use in Oregon courts.

With agreement on the basic framework of that "hybrid" approach, the Work Group addressed one final concern as to qualification: What significance, if any, should an otherwise qualified applicant's criminal history be given in determining his or her eligibility to provide transcription services pursuant to ORAP 3.33? The Work Group concluded that, given the requirements of absolute, scrupulous accuracy in preparing a

transcript, criminal conduct involving dishonesty and deceit should be deemed to be disqualifying.

The Work Group then focused on the second overarching question framed by the Chief Justice's charge: What uniform criteria should guide the equitable and efficient assignment of transcriptionist work pursuant to ORAP 3.33(2)?

The Work Group, after considerable discussion, agreed on, and proceeded from, four overarching "structural" principles pertaining to assignment of transcriptionist work:

*First*, all qualified transcriptionists will be placed on a single, statewide "list" maintained by the Office of the State Court Administrator--and, consequently, will be eligible to receive work from any transcript coordinator anywhere in Oregon. Thus, transcript coordinators will have the capability of assigning work to a broader "pool" of qualified providers, which may enhance efficient provision of transcriptionist services.

*Second*, placement on the OSCA list signifies merely that the person is *eligible*, not *entitled*, to receive assignments of work pursuant to ORAP 3.33(2).

*Third*, to promote efficient and timely rendition of services, a qualified transcriptionist cannot request or accept additional work from any court after filing a request for an extension of time to file a transcript (other than an extension filed because the requesting party has not paid for the transcript) until completing that transcript.

*Fourth*, work assigned by a transcript coordinator can be performed only by a qualified transcriptionist. That is, work cannot be delegated or subcontracted to an individual not included on the OSCA-maintained list.

Proceeding from those "structural" assumptions, the Work Group addressed the dynamics of assignment of work to particular persons among an "eligible" pool of qualified transcriptionists. The Work Group recognized that local transcript coordinators necessarily have great flexibility in selecting providers of transcriptionist services. Nevertheless, to avoid the appearance--or actuality--of impermissible favoritism, uniform and principled considerations should guide the exercise of that discretion.

The Work Group concluded that such appropriate considerations include the following: (1) past performance (if any) in timeliness, accuracy, and formatting of transcripts; (2) the transcriptionist's history with respect to responsiveness to the court and counsel; (3) the volume of transcripts the transcriptionist has outstanding and the

transcriptionist's current capacity to meet transcript deadlines; and (4) the transcriptionist's history of compliance with the code of conduct.

Finally, members of the Work Group drafted and revised a proposed OJD policy that, if adopted, would embody and effectuate the Work Group's determinations, as described above, regarding qualification standards for providers of appellate transcriptionist services and uniform criteria guiding the assignment of work to qualified appellate transcriptionists.

The final draft of that proposed policy, as unanimously ratified by the Work Group, is appended as Attachment 1 to this report.

### III. CONCLUSION

The Work Group on Qualifications for Transcriptionists respectfully recommends that the Oregon Judicial Department, after completion of appropriate process, adopt the proposed draft policy, Attachment 1, regarding the qualifications and selection of transcriptionists.

# WORKING DRAFT

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Oregon Judicial Department		<i>Policy/Procedure</i>		
Chapter: Appellate and Trial Court Operations	Volume 2	Chapter 19	Section 1	Page 1 of 6
Section: Trial Court Appellate Procedures	Original Effective Date:		Revision No.:	Revision Effective Date:
Issued By: Executive Services Division	Approved By:		Date:	

**PURPOSE:** To provide the Oregon Judicial Department (OJD) with policy and procedures regarding the qualifications and selection of transcriptionists.

**TYPE:** Mandatory Policy. A policy statement that all OJD personnel must follow unless the policy statement makes a specific exception or the Chief Justice, State Court Administrator, or designee authorizes an exception in writing.

**AFFECTED PERSONS:** All OJD personnel.

## POLICY DEFINITIONS:

Audio Recording	Any electronic recording, regardless of format, that contains at least one sound track.
OJD	Oregon Judicial Department.
OSCA	Office of the State Court Administrator.
OSCA Transcriptionist List	A list of individuals eligible to transcribe the audio recording of oral proceedings before a state court.
SCA	State Court Administrator.
Transcript	A typewritten or printed copy of oral proceedings before a court.
Transcript Coordinator	The OJD employee a trial court administrator designates under the authority of ORS 8.225(5) who is responsible for selecting qualified transcriptionists to transcribe audio recordings per ORAP 3.33(2)(a)(ii).
Transcriptionist	An individual who makes a transcript from an audio recording.

## POLICY:

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- I. As the courts use audio recording equipment to capture the record of court proceedings, the circuit courts have a need to use transcriptionists to translate audio recordings into the written word—especially for appellate transcript purposes. It is the OJD's policy that
  - Transcriptionists meet specific and uniform standards to be eligible to transcribe audio recordings of proceedings in state courts; and
  - Transcript coordinators consider specific criteria in the selection of transcriptionists.

## PROCEDURES:

### II. QUALIFIED LIST

#### A. Centralized List

The Office of the State Court Administrator (OSCA) will create and maintain a list of transcriptionists who meet the requirements of this policy. The OSCA transcriptionist list will contain the individual's name, contact address, and contact phone number. The OSCA transcriptionist list is not confidential and may be posted electronically to facilitate access to the information.

OSCA will update the list as frequently as OSCA determines is useful and practical.

#### B. Eligibility

1. To be eligible for the OSCA transcriptionist list, an individual must
  - a. Hold a recognized certification that meets the requirements of Section III of this policy;
  - b. Complete an OSCA-sponsored course on appellate transcript formatting, deadlines, and notification requirements;
  - c. Agree to abide by the code of conduct in Section IV of this policy; and
  - d. Not have a conviction for a crime involving dishonesty, fraud, deceit, misrepresentation, or other illegal activity that reflects negatively on the individual's fitness to handle and transcribe court records.
2. Eligibility is determined on a person-by-person basis. Only individuals will be eligible to be on the OSCA transcriptionist list; however, a business name may be included as part of the individual's contact address.

#### C. Effect of Listing

1. Beginning July 1, 2009, transcript coordinators must select only transcriptionists on the OSCA transcriptionist list for the creation of transcripts, unless the State Court Administrator (SCA) grants an exception. (Does not apply to services arranged for specific transcripts before July 1, 2009.)



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Before July 1, 2009, transcript coordinators may give preference to transcriptionists who appear on the OSCA transcriptionist list.

2. Placement on the OSCA transcriptionist list does not guarantee the use of services. OJD has sole authority to arrange for transcriptionist services according to the needs of the department or the individual court.

#### **D. Getting on the List**

To be included on the OSCA transcriptionist list, an eligible individual must

1. Send a completed request form and required documentation to OSCA (using the current form OSCA provides);
2. Provide proof that the individual currently holds at least one of the recognized certifications (see Section III); and
3. Disclose all criminal convictions and provide additional information, as requested, about the convictions.

#### **E. Staying on the List**

1. The general policy is to keep individuals on the OSCA transcriptionist list with no renewal requirements; however, OJD reserves the right to require individuals to
  - a. Verify contact information;
  - b. Indicate continued desire to be on the list;
  - c. Reaffirm commitment to the code of conduct; and
  - d. Meet other requirements, including educational requirements, that may arise from changes in law, rules, policies, procedures, technology, or other factors.
2. The transcriptionist is solely responsible to notify OSCA in writing of a name, contact address, or contact phone number change.

#### **F. Removal from the List**

OSCA may remove an individual from the list if any of the following occurs:

1. The individual submits a written request to be removed from the list.
2. OSCA determines that the individual's address or other contact information is out of date.
3. At the sole discretion of the SCA, the SCA determines that the individual made false, fraudulent, or misleading statements, or omitted required information or

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documents, that allowed the individual to gain or maintain placement on the OSCA transcriptionist list.

4. The individual is convicted of a crime involving dishonesty, fraud, deceit, misrepresentation, or other illegal activity that reflects negatively on the individual's fitness to handle and transcribe court records.

#### **G. Reinstatement on the List**

1. If an individual asks to be removed from the OSCA transcriptionist list or is removed because contact information was out of date, OSCA shall put the individual back on the list if the individual
  - a. Submits a written request that includes current contact information;
  - b. Continues to meet the eligibility requirements of Section II(B)(1)(c)&(d); and
  - c. Meets any additional requirements that others who remained on the list had to meet.
2. If the individual was removed from the OSCA transcriptionist list for any other reason, the SCA has sole discretion to decide whether the individual may be reinstated and, if so, what steps the individual must take to be reinstated.

### **III. RECOGNIZED CERTIFICATIONS**

#### **A. Specific Certifications**

OJD accepts the following specific certifications toward eligibility:

- Oregon Certified Shorthand Reporter (CSR)
- National Court Reporters Association:
  - Registered Professional Reporter (RPR)
  - Registered Merit Reporter (RMR)
  - Registered Diplomat Reporter (RDR)
  - Certified Realtime Reporter (CRR)
- The American Association of Electronic Reporters and Transcribers:
  - CET\*D
- Shorthand reporter certification from the state of Washington or California

#### **B. Other Certifications**

OJD may add other certifications to the list of certifications accepted for the eligibility requirement, at the SCA's discretion. The SCA may require the individual requesting acceptance of another certification to provide any additional documentation the SCA considers necessary to determine whether the requirements of the certification demonstrate that the individual has the skills to prepare a transcript for the Oregon courts.

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**C. Certification Must Be Current**

To be accepted for the eligibility requirement, any certification must be current and not suspended or revoked at the time the individual submits the request to be included on the OSCA transcriptionist list. Ongoing certification is not required after the individual is on the OSCA transcriptionist list.

**IV. CODE OF CONDUCT**

A transcriptionist must

- A. Prepare transcripts in the format required in the Oregon Rules of Appellate Procedure (ORAP);
- B. Treat all audio recordings of court proceedings as the record of the court, referring requests for copies of the record or questions about the content of the record to the court;
- C. Refrain from disclosing information or records the court has designated as confidential;
- D. After filing a request for an extension of time to file a transcript (other than an extension filed because the requesting party has not paid for the transcript), complete the related transcript before requesting or accepting additional work from any court;
- E. If engaging others to do any part of a transcript after July 1, 2009, use only transcriptionists who are on the current OSCA transcriptionist list;
- F. Return any audio recording or other court records to the transcript coordinator immediately if requested to do so; and
- G. Notify OSCA within 30 days of judgment if convicted of any crime, and provide OSCA with any information OSCA requests about the crime.

**V. CONSIDERATIONS IN SELECTING A TRANSCRIPTIONIST**

The transcript coordinator is responsible for selecting transcriptionist services. In selecting a transcriptionist for any transcript, the transcript coordinator may consider any or all of the following:

- A. Past performance (if any) in timeliness, accuracy, and formatting of transcripts.
- B. Responsiveness to the court and counsel.
- C. Volume of transcripts outstanding and the current capacity to meet transcript deadlines.
- D. Compliance with the code of conduct.

**REFERENCES:**

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References and links related to this policy topic are identified below.

Statutes: ORS 8.225 (transcript coordinator); ORS 8.340 to 8.360 (reporters and transcripts of testimony); ORS 8.415 to 8.455 (certified shorthand reporters); ORS Chapter 19 (appeals), especially 19.005, 19.240, 19.250 to 19.260, and 19.365 to 19.395.

Rules: ORAP 3.30 to 3.33; ORAP 3.63(3); ORAP 7.10(4); ORAP 7.25; ORAP 10.15; ORAP 12.10

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